

Forest Service, USDA

§ 291.9

Paleontological locality, location, and site mean a geographic area where a paleontological resource is found. Localities, locations, and sites may be relatively large or small.

Paleontological resource means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest, and that provide information about the history of life on earth. The term does not include:

(1) Any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

(2) Any cultural item (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)).

Paleontological site is used interchangeably with paleontological locality or location, but is never intended to be synonymous with "archaeological site."

Reasonable amount means a maximum per calendar year of one-hundred pounds by weight, not to exceed twenty-five pounds per day.

Repository means a facility, such as a museum, paleontological research center, laboratory, or an educational or storage facility managed by a university, college, museum, other educational or scientific institution, or a Federal, State or local government agency that is capable of providing professional curatorial services on a long-term basis.

Repository agreement means a formal written agreement between the Authorized Officer and the repository official in which the parties agree on how the repository will provide curatorial services for collections.

Repository official means any officer, employee, or agent officially representing the repository that is providing curatorial services for a collection that is subject to this part.

Secretary means the Secretary of Agriculture with respect to National Forest System lands controlled or administered by the Secretary of Agriculture.

State means the 50 States, the District of Columbia, the Commonwealth

of Puerto Rico, and any other territory or possession of the United States.

§ 291.6 Confidentiality of information—general.

(a) Information concerning the nature and specific location of a paleontological resource is exempt from disclosure under the Freedom of Information Act (FOIA) (5 U.S.C. 552), unless the Authorized Officer has made a written determination that disclosure would:

(1) Further the purposes of the Act and this part;

(2) Not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) Be in accordance with other applicable laws.

(b) *Sharing protected information does not constitute a disclosure.* The Authorized Officer may share information concerning the nature and specific location of a paleontological resource with non-Agency personnel for scientific, educational, or resource management purposes. A recipient of such information may be required to sign a confidentiality agreement in which the recipient agrees not to share the information with anyone not authorized to receive the information.

§ 291.7 Public awareness and education.

The Chief of the Forest Service will establish a program to increase public awareness about the significance of paleontological resources on National Forest System lands.

§ 291.8 Area closures.

(a) In order to protect paleontological or other resources or to provide for public safety, the Authorized Officer may restrict access to or close areas to the collection of paleontological resources.

(b) The regulations in this part do not preclude the use of other authorities that provide for area closures.

§ 291.9 Determination of paleontological resources.

(a) All paleontological resources on National Forest System lands will be managed, protected, and preserved in accordance with the regulations in this

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part unless the Authorized Officer determines that such resources are not paleontological resources in accordance with paragraph (b) of this section.

(b) Using scientific principles and expertise, the Authorized Officer may determine that certain paleontological resources do or do not meet the definition of “paleontological resource” as set forth in these regulations, and therefore, whether or not such resources are covered by the Act or this Part.

(c) Determinations as described in paragraph (b) of this section are subject to the following conditions:

(1) A recommendation for determination must be in writing and be prepared by a paleontologist with demonstrated subject matter expertise in the specific group of paleontological resources under consideration.

(2) An Agency paleontologist will review the basis for the determination and make a recommendation to the Authorized Officer concerning the determination.

(3) The Authorized Officer will make the final determination based upon the recommendation of an Agency paleontologist and will ensure that the basis for the determination is documented, and that the determination is made available to the public.

(4) Any determination made pursuant to this section will in no way affect the Authorized Officer’s obligations under the Act or other applicable laws or regulations to manage, protect, or preserve all paleontological resources.

(d) On National Forest System lands, the following are not paleontological resources for purposes of the Act or this part:

(1) Mineral resources, including coal, oil, natural gas, and other economic minerals that are subject to the existing mining and mineral laws;

(2) Petrified wood as defined at 30 U.S.C. 611 and managed under 36 CFR 228.62 unless determined under paragraph (b) of this section to be a paleontological resource;

(3) Geological units, including, but not limited to, limestones, diatomites, and chalk beds).

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§ 291.10 Collecting.

A paleontological resource may only be collected from National Forest System lands in accordance with the casual collecting provisions in §§ 291.11 and 291.12, or in accordance with a permit issued by the Authorized Officer as identified in § 291.13.

§ 291.11 Casual collecting on National Forest System lands.

(a) Casual collecting is allowed without a permit on National Forest System lands where such collection is consistent with the laws governing the management of those lands, the land management plans, and where the lands in question are not closed to casual collection.

(b) National Forest System lands are open to casual collection unless otherwise closed, as described in § 291.12.

(c) Research activities do not constitute casual collection, and therefore, research involving the collecting of common invertebrate and plant paleontological resources requires a permit.

(d) Using scientific principles and expertise, the Authorized Officer may determine that certain invertebrate and plant paleontological resources do or do not meet the definition of “common invertebrate and plant paleontological resources” as set forth in these regulations, and thus, whether such resources can be casually collected or must be collected under permit.

(e) Determinations as described above in paragraph (d) of this section are subject to the conditions as stated in § 291.9(c)(1) through (4).

(f) It is the responsibility of the collecting public to ensure that they are casually collecting in an area that is open to casual collection, and that the materials they collect are subject to casual collection.

(g) Paleontological resources collected on National Forest System lands, including common invertebrate and plant paleontological resources subject to casual collecting, cannot be sold. Sale of these paleontological resources is a violation of 16 U.S.C. 470aaa–5(a)(3) and § 291.27(a)(3) and may subject the violator to civil and criminal penalties.